IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
And
THE HON'BLE MR. JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION NO : 7019 of 2004

Between:
Keerthipati Salamma, W/o. Krishnam Raju, 30 years,
R/o. Subbarajugaripalle, H/o. Machireddygaripalle, T. Sundupalli
Mandal, Kadapa District.

..... PETITIONER

AND

1) The Collector and District Magistrate, Kadapa District.
2) The Chief Secretary, Government of Andhra Pradesh,
A.P. Secretariat, Hyderabad.
3) The Superintendent, Central Prison, Cherlapalli, R.R. District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Habeas Corpus under Article 226 of the Constitution of India directing the respondents to produce Sri Keerthipati Krishnam Raju, now detained in Central Prison, Cherlapalli, R.R. District, before this Hon'ble Court, and he may be released forthwith after declaring that his detention is illegal and void and to pass such other order or Orders as the Court may deems fit and proper in the circumstances of the case.

For the Petitioner : MR.C.PADMANABHA REDDY, SENIOR ADVOCATE
for Mr. D.KODANDARAMI REDDY, Advocate.

For the Respondents : THE ADVOCATE GENERAL

The Court at the admission stage, made the following :

O R D E R (per Hon'ble Smt. Justice T.Meena Kumari)

The present writ petition has been filed by one Keerthipati Salamma W/o Krishnam Raju questioning the detention order passed by the first respondent dated 15.3.2004 against her husband invoking the provisions under Section 3(1)(2) r/w Section 2(a) and 2(g) of Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (Act 1 of 1986) (hereinafter referred to as 'the Act').

The allegation being that one Mr.Keerthipati Krishnam Raju S/o Venkata Raju, resident of Vavilla Vaddi Bidiki village, Cuddapah district, who is the petitioner's husband, (hereinafter referred to as 'the detenu') had indulged in illicit cutting, storing and transportation of Red Sanders heartwood causing willful destruction of Red Sanders causing damage to the public property besides a tremendous loss of national wealth, depletion of green cover resulting in adverse ecological balance having ramification on the health and well being of the public.

It is averred in the grounds of detention that on 11.12.2003, the Forest Range Officer, Sanipaya noticed a lorry bearing No.ABK-3434 coming towards T.Sundupalli for Rayavaram side at about 3.00 a.m. near Byravagunta locality, stopped the lorry and surrounded for catching the inmates, but the detenu along with his two accomplice ran away and the remaining three persons in the lorry cabin were caught. On interrogation, the three persons revealed that detenu was the real

person and has the main role in the illicit transportation of red sanders logs in the Reserve Forest. The forest staff on checking the lorry, found 134 red sanders weighing 3619 kgs. valued at Rs.1,59,236/-. It is also averred that on 20.1.2004 at about 10.00 a.m. detenu along with his accomplice were found illegally entering into the Reserve Forest by cutting, dressing and storing the Red Sanders Wood logs in Thyagalakona locality of Sanipaya Range in Rajampet Wild Life Division of Cuddapah district and on noticing the forest officials, they ran away and escaped from the scene of offence. The forest officials seized 31 red sanders logs weighing 248 kgs. valued at Rs.33,920/- from the scene of offence. It is also further averred that on 29.1.2004 at about 6.00 a.m. detenu along his followers were found illegally entering into Reserve Forest of Sanipaya Range and on noticing the forest officials, ran away from the scene of offence and that the forest officials seized 20 red sanders logs weighing 515 kgs. valued at Rs.22,660/-. Therefore, the first respondent charged the detenu for the offence punishable under Section 379 of Indian Penal Code and Section 20(1) (c) (ii), (iii), (iv) of A.P. Forest Act 1 of 1967 and under Rule 3 of A.P. Sandal Wood and Red Sanders Wood Transits Rules, 1969 and passed detention order terming the detenu as 'GOONDA' under Section 2(g) of the Act.

The learned Senior Counsel Sri C.Padmanabha Reddy has argued that except narrating the facts of seizure of lorry on the ground that the detenu has ran away and remaining three persons have revealed that the said Krishnam Raju (detenu) was the real person who played main role in illicit transportation, there is no material available to the forest officials to come to a conclusion that detenu alone is responsible for theft of red sanders as the names of the three persons have not been mentioned in the detention order itself. It has

also been further argued that in the absence of the names of three persons, the said Krishnam Raju has lost his opportunity to examine the said persons as it is not known to him, who are the said persons. The learned Senior Counsel further argued that in the absence of any other material to show that the activity of detenu would adversely affect or likely to affect the maintenance of public order, the authorities have no power whatsoever to term him as Goonda and to invoke the provisions of sub-section (2) of Section 3 of the Act.

The learned Senior Counsel also relied on the decisions of the Supreme Court as well as this Court in **Mustakmiya Jabbarmiya Shaik v. M.M.Mehta, Commissioner of Police**[1], **Anakala Maddileti v. Government of A.P., Home Department, Hyderabad**[2], **K.Ramanamma v. Government of A.P.**[3], **Mohd. Ahmed Khan v. Government of A.P.**[4].

The respondents have filed counter affidavit. In the counter affidavit, it has been stated that as the detenu and his accomplice were found illegally transporting red sanders from the forest, the detention order has been passed charging him under Section 379 IPC and also invoking the provisions of Section 3(2) read with Sec.3(1) of the Act.

We had an occasion to go through the records produced by the learned Advocate General. It has been contended by the learned Advocate General that the detention order has been passed under Section 3(1) read with Section 2(a) and 2(g) of the Act in view of the fact that there is a continuous activity of illegal cutting and transportation of red sanders which is a national wealth and the said activities of the detenu would adversely affect the maintenance of public order. The learned Advocate General further argues that had there been any use of force between the two parties, there could have

been disturbance in the public order and insecurity among the officers who are also members of the general public. Even though there is no physical harm caused by the detenu to the officers, in order to prevent him from causing harm or acting in any manner prejudicial to the detriment of the public officials, it necessitated passing of the detention order.

The records relating to the passing of detention order has been placed before us by the learned Advocate General. We had an occasion to go through the entire record. The records go to show that except stating that three persons were caught, who were present in the cabin of the said lorry, their names have been neither informed to the detenu nor mentioned in the detention order. Thereby it has to be held that the detenu has lost his chance to examine the said three persons.

It is also to be observed that on 29.1.2004, the record goes to show that panchanama has been drafted in the presence of panchas namely M.Gopi Naik, Naga Subbamma, M.Ramulamma, M.Maramma, which is in Telugu version. It also goes to show that panchas have stated that while they were working in their fields at 7.30 a.m on 29.1.2004, the Beat Officer of Mudumpadu, Zillellamanda asked them whether anybody has gone into the said route or whether they have seen anybody. The panchas informed the said Officer that one Keerthipati Krishnam Raju S/o Venkat Raju, resident of Vavillavaddi Bidiki village and Poojari Naga Raju S/o Chinna Subbarayudu, have gone on the bund of the field talking with each other towards the village and the officers have come behind them. But according to the Forest Officer, the said Krishnam Raju, on 29.1.2004, was found in the reserve forest at 6 a.m. According to the panchas, it goes without saying that both Krishnam Raju and Poojari Naga Raju were not in a hurry to run away as they were going slowly towards village talking

with each other. The above factum goes to show that there was no activity on the part of the detenu to act in any manner prejudicial to the maintenance of public order. The record also shows that there is no material before the authorities to come to a conclusion that the activities of the detenu have caused harm and widespread danger to the general public and public wealth. In the absence of such material, it has to be observed that the detention order naming the detenu as 'goonda' has been passed in a mechanical manner.

In view of the decisions of the Apex Court as well as this Court, it has to be held that there is no basis, as such to come to a conclusion, that the detenu has caused any danger or harm to the general public and his actions would adversely affect the maintenance of public order. Therefore, We have no hesitation to quash the detention order passed by the first respondent in Proceedings No.C1/226-A/M/04 dated 15.3.2004 and it is accordingly quashed.

In the result, the writ petition is allowed and the impugned order of detention in Proceedings No.C1/226-A/M/04 dated 15.3.2004 passed by the District Collector & Magistrate, Cuddapah, first respondent herein, is set aside and the petitioner be set at liberty forthwith, if not required in any other case.

Sd/- P.KRISHNA MURTHY
ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

Dated: 21st June 2004.

To

1. The Collector and District Magistrate, Kadapa, Kadapa District

2. The Chief Secretary, Government of Andhra Pradesh, Secretariat, Hyderabad.

3. The Superitendent, Central Prison, Cherlapalli, R.R.District.

4. Two C.Cs to the Advocate General, High Court of A.P.,Hyderabad (OUT)

5. 2 CD copies

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[1] 1995(3) SCC 237

[2] 1999(5) ALD 258 (DB)

[3] 1998(3) ALD 86 (DB)

[4] 2002 Crl.L.J. 1962